UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/384,585	08/27/1999	YOSHIROU YAMAZAKI	1982-0133P	8003

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA   22040-0747

EXAMINER
VIDA, MELANIE M

ART UNIT	PAPER NUMBER
2697	5

DATE MAILED: 04/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>27 August 1999</u> .

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .

4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: .

DETAILED ACTION

Double Patenting

I.   The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

    A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

    Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1.   **Claim 1, 2, 8, 9** are provisionally rejected under the judicially created doctrine of

obviousness-type double patenting as being unpatentable over claim 1, 8, and 12 of copending

Application No. 09/324,123. Although the conflicting claims are not identical, they are not

patentably distinct from each other because as per **claim 1,** the reading means in this application

is read as the pre-scan in the copending application. Similarly, the acquisition means in this

application is read as the fine scan in the copending application. Further, the storage for the

reading means is read as the memory means for storing the fine scanned data. Finally, the

calculation means and the correction means are both read as the correction condition setting

means and the correction means for reading the fine scanned data of the copending application,

respectively. Thus, **claim 2, 8, and 9,** are rejected for similar reasons.

    This is a <u>provisional</u> obviousness-type double patenting rejection because the conflicting

claims have not in fact been patented.

Claim Rejections - 35 USC § 102

II.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1.   **Claim 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14** is rejected under 35 U.S.C. 102(b) as

being anticipated by Terashita, U.S. Patent Number 5,767,983, (hereinafter, Terashita).

Referring to **claim 1,** Terashita teaches a photographic printing apparatus (col. 13, lines

1-22), *read as an image processing apparatus.* Terashita teaches that a negative film may

comprise one film or a series of original images, so that the characteristics of the original images

in the frames to be printed are also similar (col. 1, lines 44-48). However, Terashita teaches that

among the series of original films, there are films whose film characteristics are abnormal (col. 1,

lines 58-67). Terashita teaches that each frame contains a DX code on the side edge of each

negative film, representing the kind of negative film, 20, (col. 13, lines 20-40).

Terashita also teaches that a reference image frame or a film frame region following a final film

frame is designated as an unexposed portion, which contains film characteristic data, (col. 13,

lines 31-41). Terashita teaches a means to determine the abnormal frame among a series of

frames in a negative film, calculate a correction parameter, and correct the frame as follows:

a.   A scanner, (fig. 1, block 28), with an image sensor having a CCD for reading an

original frame, (figure 2A, steps 114-116) in a series of frames on a negative film (20), *read as*

the reading means for reading an image recorded on a recording material (col. 14, lines 11-16).

b.   An acquisition, *read as an acquisition means,* of film characteristics, development

characteristics, and film characteristics of the DX code on the side edge of each negative film

and the reference image frame (figure 3 and figure 2A steps 100-112), *read as acquiring image*

characteristic data, of a negative film, *read as an image recorded was formerly read,* are

reflected on the film characteristic data stored in the photometric memory, *read as stored in*

storage means, (col. 13, line 20 through col. 14, line 10).

c.   The calculation means is read as the exposure amount-determining device, (fig. 1,

item 32), with a exposure amount control routine, (figure 2A-2B), *further read as a calculation*

means, (col. 15, lines 6-24), which takes the film characteristic data from the reference image,

read as image characteristic data acquired by said acquisition means, and selects a frame

among the series of original frames in a negative film, 20, (figure 2A, steps 114-116), *read as*

said reading of said reading means, and calculates exposure amount (figure 2B, step 152), *read*

as correcting image quality deterioration of the image.

d.   The exposure control, (figure 2B, step 152), *read as a correction means which*

corrects, based on determining coefficients, (figure 2B, step 148), *read as the correction*

parameter, corrects a color change in the original image, *read as the image data,* included in a

film whose film characteristics that have changed, (col. 24, line 60 through col. 25, line 11).

Referring to **claim 2,** Terashita teaches a photographic printing apparatus (col. 13, lines

1-22), *read as an image processing apparatus.* Terashita teaches that a negative film may

comprise one film or a series of original images, so that the characteristics of the original images

in the frames to be printed are also similar (col. 1, lines 44-48). However, Terashita teaches that

among the series of original films, there are films whose film characteristics are abnormal (col. 1,

lines 58-67). Terashita teaches that each frame contains a DX code on the side edge of each

negative film, representing the kind of negative film, 20, (col. 13, lines 20-40).

Terashita also teaches that a reference image frame or a film frame region following a final film

frame is designated as an unexposed portion, which contains film characteristic data, (col. 13,

lines 31-41). Terashita teaches a means to determine the abnormal frame among a series of

frames in a negative film, calculate a correction parameter, and correct the frame as follows:

a.   A scanner, (fig. 1, block 28), with an image sensor having a CCD for reading an

original frame, (figure 2A, steps 114-116) in a series of frames on a negative film (20), *read as*

the reading means for reading an image recorded on a recording material (col. 14, lines 11-16).

b.   An acquisition, *read as an acquisition means,* of film characteristics, development

characteristics, and film characteristics of the DX code on the side edge of each negative film

and the reference image frame (figure 3 and figure 2A steps 100-112), *read as acquiring image*

characteristic data, of a negative film, *read as an image recorded was formerly read,* are

reflected on the film characteristic data stored in the photometric memory, *read as stored in*

storage means, (col. 13, line 20 through col. 14, line 10).

c.   The calculation means is read as the exposure amount-determining device, (fig. 1,

item 32), with a exposure amount control routine, (figure 2A-2B), *further read as a calculation*

means, (col. 15, lines 6-24), which takes the film characteristic data from the reference image,

read as image characteristic data acquired by said acquisition means, and selects a frame

among the series of original frames in a negative film, 20, (figure 2A, steps 114-116), *read as*

said reading of said reading means, and determines normalizing conditions (figure 2a, step 120,

and figure 2B, step 136), and (col. 17, lines 33-35), and (col. 18, lines 10-33), and *read as both*

data becomes equal to that obtained by reading the image under similar reading conditions, and

thereafter calculates an exposure amount (figure 2B, step 152), *read as correcting image quality*

deterioration of the image.

        d.   The exposure control, (figure 2B, step 152), *read as a correction means which*

corrects, based on determining coefficients, (figure 2B, step 148), *read as the correction*

parameter, corrects a color change in the original image, *read as the image data,* included in a

film whose film characteristics that have changed, (col. 24, line 60 through col. 25, line 11).

        . Referring to **claim 3,** Terashita teaches of reading conditions which include an exposure

control routine, (col. 14, lines 53-59), and an exposure control determining device that

determines an exposure amount by setting coefficients of an exposure calculating formula as a

result of the determination, so as to effect <u>exposure control,</u> (col. 22, line 63, through col. 23, line

7), *read as a spectral sensitivity of said reading means.*

        Referring to **claim 4, and 5,** Terashita teaches that a transparent magnetic layer on the

negative film wherein density-correction or color-correction information is recorded, (col. 31,

lines 49-59), *read as a magnetic recording layer formed with a magnetic material being applied .*

to the photographic film. Terashita further teaches of a photographic printing apparatus (col. 13,

lines 1-20), & (fig. 1), *read as an image processing apparatus wherein the recording material is*

a photographic film.

        Referring to **claim 6, and 7,** Terashita teaches that a density-correction amount

information and a color-correction amount information, *read as image characteristic data,* read

from a transparent magnetic layer on the photographic film, *read as said image characteristic*

data obtained from image data, is compared to a calculated exposure correction, *read as image characteristic acquired from said acquisition means,* to determine which parameter can be used to produce a print, *read as said calculation means which compares said image characteristic data obtained from said image data and image characteristic acquired from said acquisition.* Terashita, inherently, teaches that the correction parameter is performed for each of the blocks as evidenced by his teachings that an original image is divided into regions, H1, and H2 (figure 8a), which are image portions of the reference image, (col. 15, lines 27-50), *read as a fixed number of blocks into which an image is divided.* Further, he states that the density of one density step for each region is determined, (col. 15, lines 27-32. The film characteristic data is extracted from a plurality of densities, (col. 15, lines 34-36), *read as a predetermined image characteristic amount for each of a fixed number of blocks into which an image is divided.* This film characteristic data is stored in first memory of the photometric data memory, and is accumulated in the second memory (col. 15, lines 50-60). Further, he teaches that individual film data may be stored separately in the second memory without being accumulated, (col. 15, lines 59-62).

Regarding **claim 8, 9,** the image correcting method, please refer to the like teachings of claim 1 and 2, respectively. Regarding **claim 10,** please refer to the like teachings of claim 3. Regarding **claim 11,** please refer to the like teachings of claim 4. Regarding **claim 12,** please refer to the like teachings of claim 4. Regarding **claim 13,** please refer to the like teachings of claim 6. Regarding **claim 14,** please refer to the like teachings of claim 6.

Conclusion

III.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Suzuki et al. U.S. Patent Number 5,768,403 identifying system for identifying an image area with a color image processing apparatus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie M Vida whose telephone number is (703) 306-4220. The examiner can normally be reached on 8:30 am 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on (703) 305-4717. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-6743 for regular communications and (703) 308-6743 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

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MMV
April 10, 2003

KA Williams

Kimberly A. Williams
Primary Examiner
Technology Center 2600